S.B.Civil Writ Petition NO.2356/2004

Murad Ali
vs
State of Rajasthan & Ors.

DATE OF ORDER : - 15.12.2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. Pankaj Sharma, for the petitioner.
Mr. V.K.Vyas,
Mr. Shyam Ladrecha, Addl. GA for the respondents.

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Heard learned counsel for the parties.

Brief facts of the case are that an award was passed in favour of injured Praveena Bano daughter of the petitioner by the Motor Accident Claims Tribunal in claim case No.53/2000 on 21st Nov., 2003. The tribunal looking to the age of victim Praveena Bano and injury suffered by Praveena Bano awarded compensation of Rs.2,65,080/-. Rs.25,000/- were already paid to the said Praveena Bano as interim compensation under Section 140 of the MV Act, 1988. Since the said victim incurred expenditure for her treatment, therefore, the tribunal awarded cash compensation of Rs.15,080/- to the victim. The tribunal ordered that the rest of the amount amounting to Rs.2,25,000/- be deposited in fixed deposit in the Bank so that it can be utilized for the benefit of the said

victim Praveena Bano.

The petitioner father of the victim submitted an application before the tribunal and submitted that he wants to take a land on mortgage basis and will give the land on contract basis to someone as the persons are ready to take the land on contract basis and by that Rs.6,000/- per Bigha can be earned from the land. Since the land will be 4 Bigha, therefore, income will be Rs.24,000/- per annum whereas by the interest income the petitioner's daughter cannot get so much of income. In view of the above, the petitioner submitted that the amount ordered to be deposited in the fixed deposit of the bank may be released to the petitioner so that the land may be taken on mortgage.

It appears that petitioner wants to have a commercial activity from Rs.1 lac, which is the property of the victim Praveena Bano. By this Rs. 1 lac, he wants to venture for a business, that too, of agriculture with having two persons more to claim share of profit in as much as that the mortgagor will get the interest and the person to whom the land will be given, will also earn from the crops to be taken from the said small land of four Bigha.

The hope of the petitioner may be very high, but the victim's money cannot be permitted to be utilized for such an uncertain business

in anticipation of earning more return from the money and in that effort even the money will be lost.

In view of the above, I do not find that the court below has committed any illegality in refusing the relief to the petitioner. Hence,the writ petition of the petitioner is dismissed.

(Prakash Tatia), J.

c.p.goyal/-